

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF MELLIN	)	APPEAL 06-A-2084
PROPERTIES L.P. from the decision of the Board	)	FINAL DECISION
of Equalization of Ada County for tax year 2006.	)	AND ORDER

**COMMERCIAL PROPERTY AND HOMESITE APPEAL**

THIS MATTER came on for hearing October 18, 2006, in Boise, Idaho, before Hearing Officer Sandra Tatom. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. General Partner Ralph Mellin appeared for Appellant. Chief Deputy Tim Tallman and Appraiser Carrie Sandirk appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. S1111336010.

**The issue on appeal concerns the market value of certain vacant land not qualifying for the agricultural property exemption and the size determination for a homesite.**

**The decision of the Ada County Board of Equalization is affirmed.**

FINDINGS OF FACT

The subject parcel consists of 42.283 acres located on the Northeast corner of Franklin Road and Five Mile in Boise, Idaho.

The prior year, January 1, 2005, assessment designated 34.763 acres as irrigated agricultural, 1.7 acres as homesite on agricultural land, 4.72 acres as waste land and 1.1 acres of other property. The waste land was given no value. While the record is unclear on how the 1.1 acres was designated for 2005, it may have been previously treated as waste land.

In assessing the value for the current tax year, effective January 1, 2006, the assessment continued to reflect 34.763 acres as irrigated agricultural, 1.7 acres as homesite and 4.72 acres as waste land. However, the 1.1 acres is now clearly classified as commercial land with an

assessed value of \$129,400. The 1.1 acres is located directly at the busy corner intersection.

During the appeal, Appellant raised two issues. First, it was contended that only one acre should be assigned to the homesite on agricultural land, rather than 1.7 acres. Information from the Assessor's Office website was submitted showing other parcels of agricultural land reflected 1-acre homesites.

The Assessor maintained that even if some parcels are incorrectly assessed, subject assessment is not necessarily incorrect. The evidence establishes the area associated with the subject homesite includes six somewhat scattered outbuildings. Designating 1.7 acres as the homesite is therefor appropriate.

As the second issue on appeal, Appellant objects to the designation of 1.1 acres as a commercial site. Mr. Mellin testified that when Franklin Road was widened in 1995 extra waste material from the project was piled onto and compacted in that area. He testified the area was lower than Franklin Road and might not be available for commercial development. Appellant contended there was also a question of access to the site.

In response, the County contended it was appropriate to designate the 1.1 acres as commercial because it was not being used as agricultural land. The property is not used in connection with the agricultural homesite either. None of the parties established what the prior designation had been made for the 1.1 acres. However, the aerial photographs in record clearly indicate that the subject parcel is one large contiguous property.

Mr. Mellin testified that the 1.1 acre lot was approximately 150 feet by 200 feet in size. A review of a Condemnation Order stipulated to Mellin Properties and the Ada County Highway District was admitted as an exhibit. A review of that Order indicates the Order does insure Mellins access to their remaining "adjoining real property", but this includes all of the subject

parcel, not just the 1.1 acre portion.

Paragraphs 7 and 8 clearly establish that any access to the remaining, adjoining property is subject to the current policies of the Ada County Highway District Manual in effect at the time of any application to develop the property. Notwithstanding those provisions, Paragraph 8.1 guarantees Mellins access to their remaining, adjoining property with a full movement access point 330 feet from the intersection on Franklin Road. In addition, Paragraph 8.2 guarantees the Mellins the option of either a full movement access point on Five Mile Road 440 feet from the intersection of Franklin Road and Five Mile, and a right-in, right-out access point on Five Mile located 220 feet from the intersection of Franklin Road and Five Mile. In the alternative, Mellins are granted a full movement access point on Five Mile Road 330 feet from the intersection of Franklin Road and Five Mile. These access points are found on Exhibit G of the Order of Condemnation and Judgment. For assessment purposes it appears the 1.1 acres would have access to the adjoining commercial streets through the other land associated with the subject parcel.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The County explained the basis for the larger homesite size determined for the subject property. It was in direct relation to the land area involved with the various structural improvements including the residence. Appellant did not demonstrate where more land should have been classified under the favorable exemption treatment associated with land actively

associated with agriculture, i.e. the production of field crops or livestock grazing. Where the Board finds no change necessary to the homesite size, there is no corresponding change suggested for the associated market valuation.

Appellant's second concern was that the 1.1 acres that was not farmed at the intersection location was improperly designated as commercial, and therefore was overvalued. Idaho is a market value state for property tax purposes. Land not expressly exempted is valued under that standard. The appropriate definition is found in Idaho Code § 63-201(10) as follows.

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

In determining the value of property, the assessor may and should consider costs, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed. Merris v. Ada County, 100 Idaho 59, 593 P.2d 394 (1979). The burden of proof [preponderance] lies with the party challenging the assessment to show that he is entitled to the relief claimed. The Senator, Inc., v. Ada County Board of Equalization, 138 Idaho 566, 569, 67 P.3d. 45, 48 (2003).

In this case, Appellant did not persuasively demonstrate the 1.1 acres was somehow landlocked or otherwise materially restricted in its practical use. The current use of the land was not demonstrated to qualify for exempt status. As such, the 1.1 acres was properly valued under the market value standard. Appellant did not put forward a supported valuation in this regard. A legal basis to value the 1.1 acres as waste with no value or as agricultural ground is not present. Therefore the assessed value of this land will be upheld.

For the reasons expressed above, the Board will affirm the decision of the Ada County Board of Equalization concerning the subject property.

**FINAL ORDER**

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

DATED this 27<sup>th</sup> day of April 2007.